

DECLARATION OF COUNSEL
IN SUPPORT OF EX PARTE MOTION TO
ENLARGE TIME FOR SERVICE OF PROCESS

Wesley J. Smith, under penalty of perjury of the laws of the United States of America, deposes and says:

1. I am over the age of 18. I have personal knowledge of the facts set forth herein, except as to matters based upon information and belief, which I believe to be true. I am competent to testify to the same and would so testify if called as a witness.

2. I am an attorney in good standing and licensed to practice before the state and federal courts of Washington, Nevada, and Utah. I am a shareholder in the firm Christensen James & Martin, Chtd., counsel of record for the Plaintiffs, the Board of Trustees of the Employee Painters' Trust, *et al.* ("Plaintiffs"), in Case No. 2:18-cv-00784-JCC before the United States District Court for the Western District of Washington at Seattle.

3. I make this Declaration of Counsel in Support of Plaintiffs Ex Parte Motion to Enlarge Time for Service of Process and for Leave to Serve by Publication ("Motion").

4. On May 29, 2018, the Plaintiffs filed the Complaint in this Action asserting Claims for Breach of Contract under ERISA, Personal Liability pursuant to the ERISA Trusts' governing documents, Foreclosure of a mechanic's lien pursuant to RCW 60.04.011, and Demand for Relief on a Bond.

5. The Complaint named Young's Glass Co. LLC ("Young's Glass"), Michael Patrick Young ("Michael Young"), Ironshore Indemnity Inc. ("Ironshore"), and Red Canoe Credit Union ("Red Canoe") as Defendants (See ECF No. 1).

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1 6. Plaintiffs were able to resolve their claims against Red Canoe and
2 voluntarily dismissed Red Canoe, along with the Foreclosure cause of action, on June 26,
3 2018 (*See* ECF No. 9).

4 7. I conducted an online search of the Washington Corporations and
5 Charities Filing System maintained by the Office of the Secretary of State, Corporations
6 & Charities Division, available at <https://ccfs.sos.wa.gov/#/>, for Young's Glass Co. LLC.
7 A true and correct copy of the search results (Business Information) is attached to the
8 Motion as Exhibit 1. The Business Information listed the Principal Office Street Address
9 for Young's Glass Co. LLC as 9922 180th Way SW, Rochester, WA 98579 ("Rochester
10 Address"). Additionally, Michael Young is listed as the Registered Agent at the
11 Rochester Address. Within the search results was a link to Young's Glass filing history.
12 Two documents had been filed with the Secretary of State by Michael Young on behalf
13 of Young's Glass, a Certificate of Formation and an Initial List. True and correct copies
14 of these documents, as obtained from the Secretary of State, are attached to the Motion as
15 Exhibit 2. Each of these documents lists the Rochester Address for both Young's Glass
16 and Michael Young.

17 8. On June 29, 2018, Summonses were issued to Young's Glass, Michael
18 Young, and Ironshore (ECF No. 12).

19 9. The Summonses to Young's Glass and Michael Young were issued to the
20 Rochester Address, their last known address as obtained from the Washington Secretary
21 of State.

22 10. On July 16, 2018, service on Ironshore Indemnity Inc. was accomplished
23 through the State of Washington Office of Insurance Commissioner. *See* Certificate of
24 Service (ECF No. 16) and Notice of Appearance (ECF No. 13).

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11. I caused the Summons to Young's Glass and Michael Young to be delivered to a licensed process server with instruction to attempt service at the Rochester Address. According to the Declarations of Non-Service returned by the process server on August 14, 2018, the process server made seven attempts at the Rochester Address between July 15, 2018 and August 14, 2018 (including Sunday July 15 at 5:03 PM, Thursday July 19 at 7:56 PM, Monday July 23 at 6:15 PM, Sunday July 29 at 4:19 PM, Sunday August 5 at 2:51 PM, Saturday August 11 at 4:15 PM, and Tuesday August 14 at 8:08 AM). No one was found on the premises and the process server was unable to accomplish service. See Declarations of Non-Service for Michael Young (ECF No. 14) & Young's Glass (ECF No. 15).

12. On August 15, 2018, pursuant to RCW 23.95.450(2), I mailed a copy of the Summons and Complaint to Young's Glass at the Rochester Address via USPS certified mail, return receipt requested. A copy of the letter is attached to the Motion as Exhibit 3.

13. On August 16, 2018, I mailed a copy of the Summons and Complaint to Michael Young at the Rochester Address via USPS certified mail, return receipt requested, and address service requested. A copy of the letter is attached to the Motion as Exhibit 4. If Michael Young has a forwarding order on his mail, USPS will forward the letter and return a notice of the new address.

14. On behalf of the Plaintiffs, I have also conducted a diligent and thorough search of public records for an alternate address where Michael Young may be served. I conducted a search of Westlaw's Public Records and PeopleMap service. A true and correct copy of some of the search results are attached to the Motion as Exhibit 5. Search results reported the Rochester Address is Michael Young's current address and has been

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1 since at least 2013. The most recent alternate address is 719 N. Tower Ave, Centralia,
2 WA 98531 (“Centralia Address”), which was last reported for Michael Young in
3 December 2017. Plaintiffs are informed and believe that Young’s Glass used the
4 Centralia address for a short time but is no longer active there. Plaintiffs are not aware of
5 any other address where Michael Young is likely to be found.

6 15. On August 16, 2018, Plaintiffs provided instruction to the process server
7 to attempt service on Michael Young at Centralia Address.

8 16. Plaintiffs are requesting that the deadline to effect service be extended by
9 ninety (90) days to see if any the secondary attempts to locate Michael Young discussed
10 above are successful and if unsuccessful, Plaintiffs can be certain that all efforts to locate
11 him have been exhausted prior to attempting service by publication.

12 /s/ Wesley J. Smith
13 Wesley J. Smith, Esq.
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